



**AA/EEO GUIDELINES FOR
RECRUITMENT AND SELECTION
OF MANAGERIAL,
PROFESSIONAL SUPERVISORY,
CONFIDENTIAL AND
ADMINISTRATIVE STAFF**

July 2009

AA/EEO GUIDELINES FOR RECRUITMENT AND SELECTION OF MANAGERIAL, PROFESSIONAL SUPERVISORY, CONFIDENTIAL AND ADMINISTRATIVE STAFF

University Policy protects all employees and applicants for employment against discrimination on the basis of race, religion, color, national origin, ancestry, age, sex, sexual orientation, gender identity and expression, disability, atypical hereditary cellular or blood trait, marital status, civil union status, domestic partnership status, military service, veteran status, or any other category protected by law.¹

These guidelines have been designed to assist hiring authorities in conforming to university policy and EEO laws, orders, and regulations² when filling Managerial, Professional, Supervisory, Confidential and Administrative Staff vacancies. UHR provides a complete online toolkit of hiring information at <http://uhr.rutgers.edu/stf/HiringTK.htm>. Should there be any conflict between these guidelines and applicable law, the law shall govern. These guidelines will be updated from time to time as legal developments and conditions at the university warrant.

I. ENSURING A BROAD APPLICANT POOL

- A. It is suggested that the hiring authority conduct a *broad search* that will result in a representative applicant pool, one in which qualified minorities and women are attracted. Ideally, the applicant pool will reflect the racial and gender makeup of all people qualified for the position in the local, statewide, regional, or national labor market.³
- B. The responsibility for choosing the successful candidate from among those who are eligible and qualified belongs to the hiring authority alone.
- C. All Managerial, Professional, Supervisory, Confidential and Administrative positions, full- and part-time, regardless of source of funding or contractual commitments, where the appointment is for a period of ten months or longer, are posted on the University Human Resources website, <http://uhr.rutgers.edu/jobpostings/APS/APSMAN.ASP>, which provides accessibility to anyone with internet access. Managerial, Professional, Supervisory, Confidential and Administrative positions are also automatically posted on the New Jersey/Eastern PA/DE Higher Education Recruitment Consortium, <http://www.njepadeherc.org>, which is directed at those who are looking for employment in higher education in New Jersey. Lastly, upon request of the hiring authority, a Managerial, Professional, Supervisory, Confidential or Administrative position can be posted on the HigherEdJobs.com website, <http://www.HigherEdJobs.com>, at no cost to the hiring department by contacting a

¹ See 60.1.8 Equal Employment Opportunity and Affirmative Action in the University Policy Library, <http://policies.rutgers.edu/>.

² See Major Laws and Orders Governing Nondiscrimination in Employment (Attachment 1).

³ Availability figures for staff by job group within occupational category and relevant labor area are available from the Office of Employment Equity.

human resource representative These various and open posting options are usually sufficient to ensure a broad applicant response and a diverse applicant pool.

- D. Positions that are noted to be underutilized for females and/or minorities (that is, within a job group, minority/female populations are not within 80 percent of the available qualified population in the applicable recruitment area and the shortfall is at least one person), should receive special attention to ensure that the posting has generated a representative applicant pool. If a posted position is determined to be underutilized for females and/or minorities, the hiring manager will receive an email from the Office of Employment Equity. The Office of Employment Equity can also provide a summary of the applicant pool as to race and gender.

II. RECRUITMENT REQUIREMENTS⁴

- A. All position announcements, both internal and external, and all classified advertising should be written in sexually neutral language and contain the tag line, "Rutgers is an equal opportunity/affirmative action employer."
- B. Since each position is now posted on the internet, which now receives broad response, there is normally no need or requirement to advertise in other ways, even when a Managerial, Professional, Supervisory, Confidential or Administrative vacancy occurs in a job group in which minorities and/or women are underutilized.
- C. University policy on Managerial, Professional, Supervisory, Confidential and Administrative vacancies⁵ requires all vacancies to be announced through the university job posting system, except for positions filled by intradepartmental transfer or promotion and positions to which persons are appointed by the President or the Board of Governors and who serve "at their pleasure."
- D. A transferred employee's work performance, evaluated by an appropriate supervisor, must be satisfactory, the employee must be qualified for the new position, a full search must have been conducted when the employee was originally hired, and no more than three months must have elapsed since the employee went off the university payroll if there was a break in service.

III. POSITION DESCRIPTION

- A. Each recruitment effort starts with a position description. A carefully written position description is valuable in several ways. It can screen out some unqualified applicants, it can decrease the subjectivity in matching candidate qualifications to position requirements, and it can support the hiring decision should a hiring authority be called upon to document its choice.
- B. A good position description should accurately and clearly describe the position's full range of responsibilities, duties, and tasks, identifying the skills and abilities required by the position. It should specifically outline the "essential functions" of the position.

⁴ Also see section on EEO/AA Guidelines to Staffing Externally Funded Project, page 9.

⁵ See 60.4.6 Managerial, [Professional, Supervisory, Confidential and Administrative Vacancies](http://policies.rutgers.edu/) in the [University Policy Library \(http://policies.rutgers.edu/\)](http://policies.rutgers.edu/)

Essential functions are the major duties and responsibilities of such importance that if they were eliminated, the position would no longer exist. The position description should also be precise concerning the general qualifications, including required skills, knowledge, and abilities, as well as any special conditions of employment. All qualifications must be job-related and set no higher than necessary to perform the duties described. A position description may not be tailored to a particular individual. A number of generic position descriptions are available at <http://uhr.rutgers.edu/comp/ClassificationAssistanceInfo.htm>.

IV. INTERNAL/EXTERNAL CANDIDATES

- A. Recruitment of qualified external and internal candidates for a vacant position is conducted concurrently through the postings on the internet. Applicants indicate on the application as to whether they are internal or external candidates. Casual and temporary employees shall be considered external applicants and may not be appointed to a vacant position without posting the vacancy.
- B. To be eligible to apply for a vacant position, regularly appointed employees must have been employed in their current position for at least six months.

V. APPLICANT TRACKING SYSTEM

- A. Rutgers has a user-friendly online Applicant Tracking System (ATS) on the University Human Resources website (see user guide at <http://uhr.rutgers.edu/comp/atsuserguide.htm>) that allows departments to streamline the process by which classification requests⁶ and/or postings of new, vacant or encumbered positions are submitted to University Human Resources. The process determines the appropriate classification and grade for all new, vacant, and encumbered staff positions through a review of the position's duties and responsibilities. It allows departments to submit the required forms and obtain all necessary approvals electronically. Classification assistance, as well as the Classified Assistance Recruitment Form (CARF), can be found at <http://uhr.rutgers.edu/comp/ClassificationAssistanceInfo.htm>. Departments are able to monitor the progress of their requests online through the ATS.
- B. A complete listing of Managerial, Professional, Supervisory, Confidential and Administrative staff positions can be found on the Staff Job Listings webpage, <http://uhr.rutgers.edu/FindAJob.htm>, where both internal and external applicants are able to apply for jobs online.
- C. Applicants are given the opportunity on the ATS site to indicate their race and gender. While this specific information is not available to the hiring authority, the composition of the applicant pool can be summarized by the Office of Employment Equity,

⁶ A classification review should be requested whenever a new position is created or the functions of an existing position have significantly changed and the department requests a re-evaluation of the position's current grade or range. See "Classification Review Process" at <http://uhr.rutgers.edu/comp/ClassificationAssistanceInfo.htm> for further information.

information that is especially useful when there is an underutilization⁷ of females and/or minorities in the job group/unit or department posting the position. As an added service, when a hiring authority or search committee has identified a group of candidates to be interviewed, the hiring authority can forward the list to the Office of Employment Equity for analysis. If no women or minority candidates have been identified for interview, the Office of Employment Equity staff and the hiring authority can discuss how the qualifications of the candidates to be interviewed exceed those of the female and/or minority candidates and assess what steps may be needed to increase the number of female and/or minority interviewees.

- D. If a department wants to place additional advertising either in print or through the internet in order to reach minorities, women, people with disabilities or other protected categories, the department can contact University Human Resources for assistance with the posting and information on the advertising agency contracted by UHR. In Camden, classified advertising is placed by the hiring authority. Media selected should reach a representative constituency within the relevant recruitment area. However, since the UHR online job listing is easily reached by a large portion of the applicant pool, it is *not required* that any hiring authority place advertisements with outside media. If there is underutilization of females and/or minorities, or if the hiring authority wishes to target minorities and/or women, there may be a specific media targeted at these groups for the type of position available. The Office of Employment Equity maintains a listing of some such sources, which is available at <http://uhr.rutgers.edu/ee/RecruitmentSources.htm>.
- E. If more than one position is listed in a single advertisement, each should be numbered or otherwise identified and applicants requested to specify the position for which they are applying. In this way, the appropriate applicant pool for each position can be identified for purposes of collecting accurate applicant flow data. All applications should come through the UHR job posting site.
- F. If the hiring authority wants to change the job title, job description, or salary range of a posted position after announcement, the position must be reviewed by University Human Resources for approval and then re-announced because the new conditions may attract a different applicant pool.
- G. If an applicant is hired and his or her employment with Rutgers terminates within three months, and the original search was broad and resulted in a representative applicant pool, the same pool of candidates may be used for selecting a replacement. After three months, a new search should be undertaken, although qualified applicants from the original applicant pool can be reconsidered.
- H. Positions are posted on the ATS for a minimum of 7 days (5 business days). Positions will be removed from the internet job site once the position is filled.

VI. RECRUITING FOR POSITIONS WITH A HEALTH HAZARD

⁷ Underutilization is defined as having minority/female populations within a particular job group that are not within 80 percent of the available qualified populations in the applicable recruitment area and the shortfall is at least one person.

- A. Certain laboratory conditions or other work environments have been found to carry health risks for specific classes of individuals. When advertising for positions in which there is a risk of health to *some* individuals within a class, no restrictions should be placed on the applicants from that class.
- B. For example, if a position carries a health risk to pregnant women, no restrictions should be placed on the sex of the applicants. Rather, qualified applicants should be informed by the hiring authority through written communications and oral discussion of the risks involved so they can make informed decisions concerning their interest in competing for the job.

VII. SEARCH COMMITTEES

- A. While search committees are not required by UHR, whenever used, the search committee should, if appropriate, include women and members of minority groups. The search committee should be apprised by the hiring authority if there is an underutilization of minorities and/or women in the job group/occupational group in which the vacancy occurs, as determined by UHR. This information will guide the committee in planning the recruitment effort.
- B. A copy of the *AA/EEO Guidelines for Recruitment and Selection of Managerial, Professional, Supervisory, Confidential and Administrative Staff* should be provided to each member of the search committee. Copies are available on request from the Office of Employment Equity, or on the UHR website (<http://uhr.rutgers.edu>).

VIII. INTERVIEWING

A. The Interview Process

1. The hiring authority should provide interviewers with a list of clearly defined questions designed to determine whether candidates are qualified and can perform the essential functions of the job. These questions should be asked uniformly of all candidates.
2. All questions directed to applicants should be related to the position for which they have applied. No questions may be asked of one group of applicants that are not also directed to all other applicants. Questions concerning race, religion, national origin, ancestry, sex, sexual orientation, marital status, age, or disability or any other protected category may not be asked during the interview process.⁸
3. After each interview, the interviewers' evaluations should be put in writing and must be retained for a period of two years in the department files with all other documents related to the search (see Record Maintenance, page 8).

⁸ See NJ Department of Personnel's Guide for Conducting Professional Interviews for exceptions (Attachment 2).

4. Final candidates should generally be interviewed by more than one person. Whenever feasible, interviewers should include women and members of minority groups employed at a comparable level.

B. Interviewing Qualified Individuals with Disabilities

1. An applicant is qualified for a position if he or she meets the skills, experience, education, and other requirements of an employment position that he or she holds or seeks. The person must also be able to perform the essential functions of the position either with or without reasonable accommodation. Job requirements that screen out or tend to screen out people with disabilities are legitimate only if they are job-related and consistent with business necessity.
 - a. Under the New Jersey Law Against Discrimination, an applicant is disabled if he or she has a physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy and other seizure disorders, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair, or other remedial appliance or device, or any mental psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions that prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques. Disability shall also mean AIDS or HIV infection.
 - b. Under the federal Americans with Disabilities Act, as amended (ADAAA), an individual with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such impairment, or is regarded as having such impairment.
2. Whether or not an applicant self-identifies as disabled, questions such as the following may not be asked:
 - a. Are you currently mentally or physically ill or disabled or do you have a history of such illness or disability?
 - b. Do you have a history of absences due to illness or disability?
 - c. Are you currently receiving treatment for drug or alcohol addiction or have you ever received such treatment?
 - d. Have you ever been injured on the job, applied for Workers' Compensation, or received Workers' Compensation benefits?
3. During the hiring process and before a conditional offer is made, an employer generally may not ask an applicant whether she or he needs a reasonable accommodation for the job, except when the employer knows that an applicant has a disability – either because it is obvious or the applicant has voluntarily disclosed the information – and could reasonably believe that the applicant will need a reasonable

- accommodation to perform specific job functions. If the applicant replies that she or he needs a reasonable accommodation, the employer may inquire as to what type.
4. After a conditional offer of employment is extended, an employer may inquire whether applicants will need reasonable accommodations related to anything connected with the job (i.e., job performance or access to benefits/privileges of the job) as long as all entering employees in the same job category are asked this question. Alternatively, an employer may ask a specific applicant if she or he needs a reasonable accommodation if the employer knows that this applicant has a disability – either because it is obvious or the applicant has voluntarily disclosed the information – and could reasonably believe that the applicant will need a reasonable accommodation. If the applicant replies that she or he needs a reasonable accommodation, the employer may inquire as to what type.

IX. SELECTION

- A. In New Brunswick and Camden, UHR reviews/qualifies the credentials of the selected candidate and approves the salary before an offer is made. In Newark, approval of the candidate's credentials by the Human Resources office is also required before an offer is made.
- B. Under equal employment opportunity law, the employer should normally select the candidate with the best overall qualifications; however, other job related qualities such as hours, salary, availability and other factors may be considered as long as they are not discriminatory.
- C. Whether or not the applicant has relatives employed by the university should obviously not influence selection decisions. University policy on Employment of Relatives⁹ permits an individual's permanent employment as long as she or he meets requisite standards and the employment does not create a supervisor/subordinate relationship between relatives. No supervisory or administrative officer shall have hiring authority over a family or household member nor shall vote, make recommendations, or in any other way participate in the decision of any matter that may directly affect the appointment, tenure, promotion, demotion, salary, or other status or interest of a family or household member. Employees are expected to voluntarily absent themselves from participation in personnel decisions in which a family or household member is involved. This policy also applies to romantic relationships.
- D. Whether or not the applicant is a citizen should not influence the selection decision. The Immigration Reform and Control Act (IRCA) of 1986 prohibits discrimination on the basis of citizenship status. IRCA permits employers to prefer a citizen over a non-citizen if both are equally qualified, but such citizen preferences may still violate Title VII if they have an adverse impact on persons of a particular national origin.
- E. Whether or not the preferred candidate requests an accommodation for a disability should not influence the selection decision unless the accommodation would cause an "undue hardship." (See the factors to consider in judging "undue hardship" in the

⁹ See 60.1.1 Employment of Relatives in the University Policy Library, <http://policies.rutgers.edu/>.

Accommodations section below.)

- F. Do not notify rejected candidates until a candidate has been selected and the chosen candidate has accepted the position.
- G. If there are questions concerning choosing among equally qualified candidates, contact the Office of Employment Equity.

X. ACCOMMODATIONS

- A. Reasonable accommodations for the disabled are modifications or adjustments that can be made without undue hardship to allow a qualified individual to enjoy equal employment opportunities. If an accommodation appears to cause undue hardship, that decision should be confirmed through the chain of command within the administrative unit in consultation with the Office of Employment Equity.
- B. Individuals with disabilities themselves are often the best sources of ideas for cost-effective modifications. If an accommodation is requested by the selected candidate for a position and the accommodation is necessary and reasonable, the hiring authority is required to make the accommodation. In determining which accommodations are reasonable and which would constitute undue hardship, each case should be judged individually and the following factors considered:
 - 1. cost of the accommodation;
 - 2. effect of the accommodation on employees and students; and
 - 3. effect of the accommodation on the conduct of education programs and business affairs.
- C. Using these standards, examples of reasonable accommodations may be the construction of a ramp at a building entrance, the lowering of a public telephone, the reassignment of nonessential job responsibilities to several employees performing similar job functions, rearrangement of files or shelves for accessibility to people in wheelchairs, providing telephone amplifiers for the hearing-impaired, or placing tactile labels on telephones for the vision-impaired. On the other hand, the installation of an elevator or the relocation of an entire office most likely would constitute undue hardship.
- D. Most religious bias problems involve accommodations of employees seeking to observe their Sabbath although issues may involve religious observances while at work or particular modes of dress. An employer is required to make reasonable accommodations to an individual's religious observances and practices unless it causes undue hardship. Reasonable accommodations are (1) consistent with business necessity, (2) incur minimal costs, and (3) do not create major personnel problems. The Office of Employment Equity is available to discuss religious accommodation issues.
- E. During the interview, the hiring authority can clearly state the hours of work but may not inquire whether these hours are in conflict with the applicant's religious observances or practices. If, after the job offer is made and accepted, the new employee notifies you of a work-schedule conflict based on religion, you are obliged to consider an

accommodation.

- F. Accommodation requests and any accompanying notes should be kept in a separate and locked file and shared on a need-to-know basis.

XI. RECORD MAINTENANCE

- A. The Applicant Tracking System (ATS) will automatically retain the resumes and any accompanying documents submitted through the system.
- B. Federal law requires the hiring authority to retain a complete record of the recruitment and selection process for a period of two years. Hiring authorities should maintain a file with the recruitment sources, correspondence, evaluations of applicants' interviews, and all other material that would be of assistance in documenting:
- that good-faith efforts were made to recruit a broadly representative applicant pool;
 - that all candidates were treated fairly and equitably;
 - and, justification as to why the successful candidate was chosen.
- C. See the UHR record retention schedule for maintenance and purging timetable at <http://rmp.rutgers.edu/>.

XII. THE DISABLED AND COVERED VETERANS

- A. Disabled veterans, covered veterans or disabled individuals who are offered a position may choose to self-identify as such. They are given a copy of the memo and form in the new employee welcome packet of information.
- B. The completed form, also available in the new employee checklist at <http://uhr.rutgers.edu/ben/NewEmployeeChecklist.htm>, should be forwarded to the Office of Employment Equity, where it will be reviewed to ensure it falls within the legal requirements.

XIII. EMPLOYMENT ELIGIBILITY VERIFICATION FORM (I-9)

- A. The Immigration Reform and Control Act (IRCA) of 1986 requires employers to have a completed Employment Eligibility Verification Form (I-9) on file certifying an individual's identity and eligibility for U.S. employment. This form is available from University Human Resources and on the Appointment of a Managerial, Professional, Supervisory and Confidential Staff Member webpage, <http://uhr.rutgers.edu/comp/AppointmentofNewAPS.htm>. All appointments are subject to the candidate's presentation of proper documentation as required by law. A list of acceptable documents can be found on the I-9 form.
- B. To implement the requirements of IRCA without risking charges of discrimination:

1. carry out verification procedures uniformly for everyone, not just for “foreign-looking” applicants or employees;
2. do not reject applicants simply because they do not look or sound like U.S. citizens;
3. verify documents only after a job offer is made; and
4. do not state a preference as to the documents required to verify an employee’s identification and work authorization.

EEO/AA GUIDELINES TO STAFFING EXTERNALLY FUNDED PROJECTS

In addition to the guidelines already described, the following apply to the special circumstances that often relate to recruitment for and transfer from grant-funded positions.

I. RECRUITMENT

- A. In order to facilitate prompt initiation of work on an externally-funded project, the broad search for personnel may be undertaken before funds are approved. Classified advertisements and announcements should include the stipulation that the position is available “contingent on the receipt of grant funds.”
- B. Money to cover classified advertising may be written into the grant proposal. An explanatory note should state that this money will be used, with an auditable record kept, to conduct a broad search in line with the obligation imposed on federal contractors by Presidential Executive Order No. 11246, as amended. However, as noted above in Section V, since the UHR online job listing is easily reached by a large portion of the applicant pool, it is not required that any hiring authority place advertisements with outside media. If there is underutilization of females and/or minorities, or if the hiring authority wishes to target minorities and/or women, there may be a specific media targeted at these groups for the type of position available. The Office of Employment Equity maintains a listing of some such sources, which is also available at <http://uhr.rutgers.edu/ee/RecruitmentSources.htm>.
- C. If the grant agency requires that the proposal name the principal investigator/program director and this position will be held by someone other than the author, the requirement should be fulfilled by spelling out the qualifications and describing the profile of the type of person who will be recruited for the position. This meets the university’s obligations to the granting agency while adhering to the prohibition against pre-selecting a candidate without conducting a broad search. Under no circumstances may the granting agency designate the principal investigator/program director.
- D. When the grant proposal is written by a full-time staff member, the writer may be named in the proposal as principal investigator/program director, and a search need not be conducted for this position. However, there must be broad recruitment for all other positions funded by the grant. As noted above and in Section V, since the UHR job listing is easily reached by a large portion of the applicant pool, outside advertising is not usually necessary.
- E. If employment on a grant-funded project will strengthen the research training of graduate students and provide financial support for their education, recruitment for specific positions may be limited to the relevant student community with the expectation that the applicant pool will be representative of the racial, ethnic, and sex composition of that community.

II. TRANSFER

- A. Upon expiration of the grant funds that provide the salary of a regular university employee occupying a Managerial, Professional, Supervisory, Confidential and Administrative position, that employee may be placed on another externally-funded line within the same unit, on the same or a different project, without recourse to a recruitment effort, providing that:
 - A. the employee's work performance, evaluated by an appropriate supervisor, is found to be satisfactory;
 - B. the employee is fully qualified for the new position;
 - C. a full search was conducted when the employee was originally hired; and
 - D. no more than three months has elapsed since the employee went off the university payroll if there was a break in service.
- B. When a university-funded staff line becomes available, it is expected that a full search will be conducted and that interested university employees will compete for the vacancy with the external candidates. However, a highly qualified grant-funded employee in the same unit may be transferred or promoted into the open position.

III. HANDLING SPECIAL SITUATIONS

- A. From time to time, hiring situations may arise that require special handling. Hiring authorities are encouraged to discuss these with their vice president or chancellor. Every effort will be made to accommodate these situations within the law and university procedures. Early consultation is a good guarantee against later delays.
- B. Requests for exceptions should be made to the Vice President for Faculty and Staff Resources.

**MAJOR LAWS AND ORDERS
GOVERNING NONDISCRIMINATION IN EMPLOYMENT**

1. Title VII of the Civil Rights Act of 1964, as amended

Prohibits discrimination against any individual with respect to hiring, discharge, compensation, and all terms, conditions, and privileges of employment because of race, color, religion, sex, or national origin.

2. Presidential Executive Order No. 11246 (1965), as amended

Prohibits discrimination by federal contractors against any employee or applicant for employment on the basis of race, color, religion, sex, or national origin. Requires the employer to take affirmative action to expand employment opportunities for women and members of minority groups¹⁰ and to eliminate practices that have the effect of excluding or limiting their employment. Also requires a written affirmative action plan, including goals for overcoming the underutilization of minorities and women in the employer's workforce.

3. Section 503, Rehabilitation Act (1973)

Prohibits discrimination against any employee or applicant for employment because of physical or mental disability regarding any position for which he or she is qualified. Requires the employer to take affirmative action to employ, promote, and otherwise treat qualified individuals with disabilities without discrimination based on their disability. Also requires a written affirmative action plan, but hiring goals need not be established. Affirmative action does require that an employer take steps to accommodate a qualified worker with a disability unless accommodation poses an undue hardship.

4. Vietnam Era Veteran's Readjustment Assistance Act of 1974

Prohibits discrimination by federal contractors against applicants or employees because they are special disabled veterans or veterans of the Vietnam era in regard to any position for which they are qualified. Requires that employers take affirmative action to employ, advance in employment, and otherwise treat special disabled veterans and Vietnam era veterans without discrimination based on their disability or veteran's status. Also requires a written affirmative action plan, but hiring goals need not be established.

5. Age Discrimination Employment Act of 1967, as amended

Prohibits employers from failing or refusing to hire, or from discharging, or from otherwise discriminating against any individual with respect to compensation and all terms, conditions, and privileges of employment because of the individual's age. Exceptions to the prohibition against forced retirement include certain high-level executives, public safety personnel, and until 1994, tenured faculty age 70 and over.

¹⁰ Defined as American Indian or Alaskan Native, Asian or Pacific Islander, Black, and Hispanic

6. Equal Pay Act of 1963, as amended

Prohibits employers from discriminating on the basis of sex in paying salaries for equal work requiring equal skill, effort, and responsibility and performed under similar work conditions.

7. New Jersey Law Against Discrimination (1945), as amended

Prohibits job discrimination on the basis of race, creed, color, national origin, ancestry, age, and marital status, affectional or sexual orientation, sex, atypical hereditary cellular or blood trait, liability for service in the Armed Forces of the United States, familial status, as well as other protected categories. The law also applies to physical disability unless the nature and extent of the disability "reasonably precludes the performance of the particular employment."

8. Title I of the Americans with Disabilities Act (1990), as amended

Prohibits employers from discriminating against any qualified employee or applicant for employment because of physical or mental disability. In addition, it requires employers to make reasonable accommodations for qualified individuals with disabilities unless doing so would impose undue hardship.

For further information about these laws and other federal and state statutes prohibiting discrimination in employment, contact:

Office of Employment Equity
57 U.S. Highway 1
New Brunswick, NJ 08901-8554
732-932-3020, ext. 4030
Cook Campus
<http://uhr.rutgers.edu/equity>
oe@hr.rutgers.edu

**N.J. DEPARTMENT OF PERSONNEL
GUIDE FOR CONDUCTING PROFESSIONAL INTERVIEWS**

SUBJECT	ACCEPTABLE	INADVISABLE
Availability for Overtime	Inquiries about an applicant's availability for evening and/or weekend work, provided that the inquiry is made of both male and female applicants and provided that the person now doing the job works evenings and/or weekends, or that a definite change in schedule is being implemented.	Asking this question because you think you may occasionally want the person to work evenings or weekends is not recommended. (Reason: question is likely to have an excessive and therefore discriminatory impact on applicants with families – particularly women.)
Citizenship	Whether the applicant is prevented from lawfully becoming employed in this country because of visa or immigration status. Whether the applicant can provide proof of citizenship, visa, alien registration number after being hired. Note: It's better just to show applicants an I-9 Form and explain that, if hired, they will need to provide documents showing that they can work in the US as required by The Immigration Act.	Whether <i>applicant</i> is a citizen. Any requirement that the applicant present proof of citizenship, visa, alien registration number <i>before</i> being hired. Rejecting any of the documentation deemed acceptable on the I-9 Form.
Credit Inquiries	Few, unless job related. Since this is a tricky area, check with management or the Affirmative Action Office before asking any questions. This criteria will have little effect to no effect on positions at DOP.	Inquiries about charge accounts, bank accounts, etc.

SUBJECT	ACCEPTABLE	INADVISABLE
Education	If the individual has the specific education or training required for the specific job.	General questions about high school or college degrees unless you (or your supervisor) can prove the educational degree inquired about is necessary to perform the job. Questions about education dates are also considered age sensitive.
Family Status	Whether applicant has any activities, commitments, or responsibilities that might prevent him or her from meeting work schedules or attendance requirements. Note: These questions must be asked of both men and women or of neither; it is unlawful to ask them only of women or only of men.	Whether the applicant is married/civil union or single (which is simply unlawful in NJ); number and age of children, spouse's/civil union partner's job, spouse's/ civil union partner's or applicant's family responsibilities. Any question asked only of one gender – e.g., asking only women about childcare arrangements. However, some questions that clearly will affect only women are inadvisable even if asked of both men and women applicants.
Financial Status	None	Inquiries about an applicant's financial condition. This has been found to result in discrimination against minorities since minorities on the average have a lower income than whites. Questions about home ownership or car ownership (unless owning a car is required for the job).
Conviction	Inquiry into actual convictions that reasonably relate to performing the particular job.	Inquiries into arrests, court or conviction records not reasonable related to the job or working conditions at issue.

SUBJECT	ACCEPTABLE	INADVISABLE
Height and Weight	Inquiries about ability to perform the job – without mentioning the applicant’s height or weight unless you are able to prove that a specific minimum or maximum height or weight is required to perform the job.	Any inquiry about height or weight that is not based on the actual job requirements.
Marital/Civil Union Status	None	Any questions designed to discover someone’s marital/civil union status.
Military	Inquiries about education, training, or related work experience gained in the US Armed Forces.	Type or condition of military discharge.
National Origin	Inquiries into applicant’s ability to read, write, and speak English or foreign languages when required for the specific job.	Questions about applicant’s lineage, ancestry, national origin, descent, place of birth, or mother tongue, national origin of applicant’s parents or spouse. How the applicant acquired the ability to read, write or speak a foreign language.
Organizations	Inquiries about membership in professional organizations related to the job – e.g., does the applicant for a Personnel Assistant job belong to Human Resources or Personnel Executive society?	Questions about organizations whose name or character indicates members’ economic or social class, race, color, creed, marital/civil union status, religion or national origin, or sexual orientation – e.g., country clubs, social clubs, religious clubs, fraternal orders.
Pregnancy	Inquiries about the applicant’s anticipated duration of stay on the job or anticipated absences – only if made to both male and female applicants.	Any question relating to pregnancy or medical history concerning pregnancy.

SUBJECT	ACCEPTABLE	INADVISABLE
Race or Color	None	Any questions tending to yield information about race or color.
Relatives	Name of applicant's relatives already employed by your organization or competitor. (This inquiry may become unlawful when hiring preference is given to relatives of employees at a time when minorities are considered underrepresented based on a lawful Affirmative Action Plan.)	Requests for the names and addresses of any relatives other than those working for your organization.
Religion or Creed	None	Questions about availability for overtime or weekend work (see above). Questions about an applicant's religious denomination, religious affiliation, church parish, pastor, or religious holidays observed.
Residence	Inquiries about the applicant's address, needed for future contact with the applicant.	Whether the applicant owns or rents his or her home. Name or relationship of person with whom applicant resides.